

may 21 1996

Gony

'...Amendment 2 classifies homosexuals not to further a proper legislative end but to make them unequal to everyone else.'

'This Colorado cannot do'

By Angela Dire
Gazette Telegraph

The U.S. Supreme Court on Monday struck down Amendment 2 as a glaring violation of the 14th Amendment to the federal Constitution.

The court's decision came 100 years, almost to the day, after its predecessors had allowed "separate but equal" accommodations for black Americans in Plessy vs. Ferguson. And the court's six-member majority began a strongly worded litany against the Colorado law with a reference to the dissenting voice in that historic case.

"One century ago, Justice Harlan admonished this Court that the Constitution 'neither knows nor tolerates classes among citizens,'" Justice Anthony Kennedy wrote for the majority. "Unheeded then, those words now are understood to state a commitment to the law's neutrality where the rights of persons are at stake . . . and today requires us to hold invalid a provision of Colorado's Constitution."

Justice Antonin Scalia dissented angrily, saying the majority opinion "has no foundation in American constitutional law, and barely pretends to."

Nonetheless, the decision was the final blow to Amendment 2, approved in November 1992 by 53 percent of the state's voters. It would have prohibited state and local governments from granting

Carol Lawrence/Gazette Telegraph



Will Perkins, chairman of Colorado for Family Values, speaks at a news conference in Colorado Springs after the U.S. Supreme Court's ruling on Amendment 2 on Monday. Perkins vowed to study the issue and present another amendment if he can.

MORE COVERAGE

- Point by point, the court's decision/A3
- Decision elates Springs professor/A4
- Editorial: Underlying issue not yet resolved/B2
- Case colors political landscape/A5
- Full text of high court's decision/A6

gays "any minority status, quota preferences, protected status or claim of discrimination."

The six people who sued the state to overturn the law relished the victory they took away from a court that had been growing increasingly

conservative in its interpretation of civil rights laws.

Richard Evans, the Denver city administrator who became the lead plaintiff in the case, did a cartwheel in front of the state Capitol steps. Angela Romero, a Denver police

See DECISION/A3

Kirk Speer/Gazette Telegraph



The board members of Ground Zero raise a toast to the U.S. Supreme Court's decision at their headquarters in Colorado Springs on Monday. The gay-rights advocacy group said it would not initiate any pro-homosexual ballot measures for at least two years.

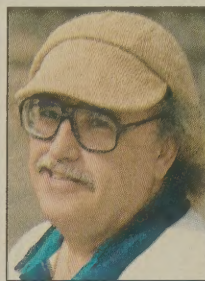
NEIGHBORS, NOT ENEMIES



"There are a million different voices here, but we don't allow them to speak. We're not allowing people the room to express their viewpoints, to listen to the viewpoints of others, then come up with creative compromises."

Kat Walter

Walter is executive director of the Smokebrush Center for Arts and Theater.



"You just put your hand out and try to offer peace. You join your efforts to try to find equal parts. I don't think we're that far apart."

Joe Brady

Brady is owner of the Hide N' Seek, the oldest gay bar in Colorado Springs.



"It doesn't matter if a person is obese, and everybody calls them names, or if a child is a slow learner and being called names, or if a gay person or Hispanic person or black person is being called names. Discrimination is simply wrong."

Gerda Fletcher

Fletcher is a Colorado Springs mother who has a gay son.



"It helps when there's a facilitator and somebody to make sure the tone remains civil, (an environment) where you can express your hopes and fears."

Jan Zimmerman

Zimmerman is a member of Food For Thought, a forum for private discussion of public issues.

Many in Springs suggest extending an olive branch

Call for healing, peace raised amid angry voices

By Todd Hartman, Rosemary Harris and Erin Emery
Gazette Telegraph

Finger pointing. Name calling. Boycotts. Misinformation. Fear.

Those were the grenades launched in a long, ugly war over Amendment 2 that splintered Coloradans and polarized communities.

It was the din of that battle 3½ years ago that made Kat Walter so upset that she bought a piece of property no one else wanted and transformed it into The Smokebrush Theater, a place of creative healing.

The ruckus made Jan Zimmerman, an evangelical Christian, prepare a meal and invite strangers to her home — so they could use the launching pad of pastas and desserts to talk out their differences.

It made Joe Brady, owner of a gay bar, start

talking to anyone and everyone about gay issues. "You just put your hand out and try to offer peace," he said.

Monday — 3½ years after it was approved by Colorado voters — the Supreme Court struck down Amendment 2, saying the ban on laws protecting homosexuals from discrimination based on their sexual orientation was unconstitutional.

The gay community celebrated. Amendment 2 supporters were angered. But between those extremes Monday came cries from the middle ground — people like Walter, Zimmerman, Brady and many others — for healing, reconciliation, peace.

Those goals must take precedence now, they said. They must dominate talk about gay rights, legal protections, lifestyle and individualism if Colorado Springs is to move beyond the rancor that characterized the debate.

"I think what's called for now is to put this thing behind us," said Rabbi Howard Hirsch,

See MIDDLE GROUND/A3

INSIDE

Bridge/CL5
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For the record/B5
GO! Today/B6
Lifestyle/E1
Movies/E2
Obituaries/B5
Opinion/B2
Scoreboard/C6
Sports/C1
Television/B6

WEATHER: Low clouds and fog early today, then partly cloudy with a high of 70. Variable clouds tonight, low 45./A2

Mark Reis/Gazette Telegraph



Montana meeting brief; Duke's departure nears

State Sen. Charles Duke refused to comment on the short meeting Monday morning between the FBI and the Montana Freeman, and officials would not speak on the state of the talks. Duke had planned to return to Colorado on Wednesday, but an FBI source said he might leave as early as today. **Complete report/A9**

◀ Colorado state Sen. Charles Duke talks to the media Monday from inside FBI headquarters in Jordan, Mont.

Campers questioned in wildfire

Associated Press



Alpine Hot Shot Shelly Hunter of Victor, Mont., uses a drip torch to burn a fire line near Buffalo Creek on Monday.

Others tipped fire authorities about juveniles

By D'Arcy Fallon/Gazette Telegraph

Several young campers were being questioned Monday night by federal fire investigators who think their campfire might have sparked a 10,000-acre inferno in the Pike National Forest on Saturday.

Four or five juveniles had been camping in Gas House Gulch, near the community of Buffalo Creek, about 30 miles southwest of Denver.

The young campers had built a ring of rocks around their campfire to keep it from spreading, said Rick Phelps, spokesman for the U.S. Forest Service. And before taking a hike, they tried to put it out.

They thought they had it doused when it resurged and spread quickly in the wind, Phelps said.

"They took care, they thought they had it out," said Phelps. "But it wasn't, not 100 percent. And the fire took off."

Fire investigators said they received tips about the juveniles from others who were camping nearby. Then after realizing what had happened, the youths came forward, according to authorities. Since the juveniles were still being questioned, Phelps declined to reveal their names, ages or where they lived. Investigators are expected to meet with the juveniles and their parents today.

Meanwhile, 700 firefighters from four states took advantage of cooler temperatures and higher humidity Monday and were able to keep the fire from advancing, said forest ser-

See FIRE/A9

...a coup or
even civil war
as the presi-
dential vote
nears

...tion, the country is awash in rumors. Of course, Aeroflot has not halted ticket bookings for the election period. But some of the rumors are harder to disprove, and they're fueling apocalyptic — and often compelling — scenarios of imminent unrest, coups or civil war.

With rumors circulating that the Communists intend to confiscate private property and restrict foreign travel, lines at passport offices are swollen. So are the lines in front of Western embassies for visas. One popular rumor — a false one — is that a Swiss passport can be had for \$200,000, a pittance for some Russian business people.

Rumors are as much a part of Russian political life as reality itself. It's not surprising in a country where propaganda was a way of life for decades and where campaign tactics blur the line between fact and fiction.

...capable of doing anything to keep it. That's the main reason for all these rumors."

One of Yeltsin's main campaign themes has been raising a "red scare," warning Russians that their pocketbooks will shrink and freedom of travel and speech will vanish if the Communists come to power.

Hardly a day goes by without some kind of fantastic story in the media about one or another of the candidates, the kind of reporting that borders on disinformation — and sometimes really is.

Last week, the popular Komsomolskaya Pravda newspaper ran a front-page doomsday article purporting to be the Communist Party program. According to the newspaper, the party would re-nationalize industry, expropriate private property, and establish full control over financial and banking spheres.

Lies, lies, lies, said the Communists. But by

The rumors have fed a series of doomsday scenarios, and there are at least as many of them as there are candidates.

Among the most dramatic:

■ Yeltsin gets cold feet and cancels the election altogether, as recommended by his influential bodyguard, Gen. Alexander Korzhakov, who said this month that the vote should be put off to avoid bloodshed.

■ Yeltsin visits the secessionist republic of Chechnya. Russian troops slightly wound him and blame it on the Chechen rebels. His popularity soars.

■ Yeltsin declares the election invalid. He dissolves the Communist Party.

■ Yeltsin loses the second round of the elections. There is a coup.

■ Zyuganov wins; the economic situation worsens; civil war breaks out.

tortoises

Gannett News Service

Thieves seeking to feed the lucrative international black market for endangered species broke into a tortoise hatching facility in Madagascar and stole 74 young and two adult female ploughshare tortoises, crippling an international effort to rescue the species, according to World Wildlife Fund.

"This is a major blow to the chances of survival of the species," said Henri Nsanjama, vice president of WWF's Africa-Madagascar program. "We hope customs authorities worldwide will do their utmost to help recover these endangered tortoises."

Nsanjama said the theft wiped out half the fragile captive population of the ploughshare tortoises — a decade's worth of species-recovery efforts. There are only a few hundred remaining in the wild.

TODAY IN HISTORY

Today is Tuesday, May 21, the 142nd day of 1996. There are 224 days left in the year.

■ **TODAY'S HIGHLIGHT IN HISTORY**
On May 21, 1927, Charles A. Lindbergh landed his Spirit of St. Louis near Paris, completing the first solo airplane flight across the Atlantic Ocean.

■ **ON THIS DATE**
In 1832, the first Democratic National Convention got under way, in Baltimore.
In 1881, Clara Barton founded the American Red Cross.
In 1956, the United States exploded the first airborne hydrogen bomb over Bikini Atoll in the Pacific.
In 1980, Ensign Jean Marie Butler became the first woman to graduate from a U.S. service academy as she accepted her degree from the Coast Guard Academy at New London, Conn.
In 1991, former Indian Prime Minister Rajiv Gandhi was assassinated during national elections by a suicide bomber.

■ **TODAY'S BIRTHDAYS**
Novelist Harold Robbins is 80. Actor Mr. T is 44. Rapper The Notorious B.I.G. is 24.

■ **THOUGHT FOR TODAY:** "Being frustrated is disagreeable, but the real disasters of life begin when you get what you want."

Irving Kristol,
American editor

COLORADO SPRINGS

GAZETTE TELEGRAPH

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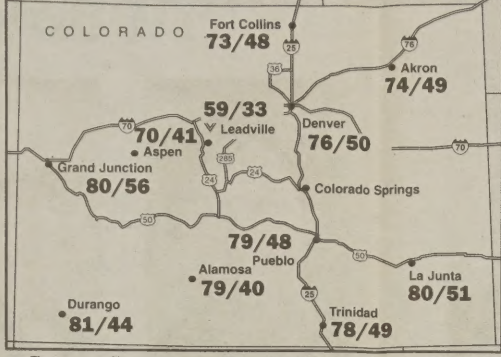
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Monday-Friday: 6 a.m.-5 p.m.
Saturday: 6-11 a.m.
Sunday: 7-11 a.m.

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Monday-Saturday: 6-11 a.m.
Sunday: 7-11 a.m.

ACCU WEATHER FORECAST

TUESDAY, MAY 21, 1996

CENTRAL MOUNTAINS: Sunny to partly cloudy today; smoky in spots. Highs 58-79. A few clouds tonight. Lows 32-52.
FRONT RANGE: Sun, a few clouds and comfortably warm today. Highs 72-79. Breezy tonight with patchy clouds. Lows 45-50.
WESTERN SLOPE: Sunny today with a pleasant afternoon. Highs 70-82. Clear to partly cloudy tonight. Lows 40-56.
EASTERN PLAINS: A good deal of sunshine and warm today. Highs 74-82. Partly cloudy tonight with a breeze. Lows 43-52.



City	Yest.	Today	Wed.	Thurs.
Akron	67 45 pc	74 49 s	76 48 pc	70 44 pc
Alamosa	76 49 s	79 40 s	73 37 s	71 30 pc
Aspen	69 35 s	70 41 s	69 35 pc	66 28 pc
Buena Vista	56 31 pc	63 37 pc	62 36 pc	64 34 pc
Denver	67 43 pc	76 50 s	76 48 pc	72 45 pc
Durango	78 37 s	81 44 s	76 41 s	75 36 pc
Fort Collins	65 41 pc	73 48 s	75 47 pc	71 44 pc
Glenwood Springs	75 38 s	76 46 s	75 40 pc	71 34 pc

City	Yest.	Today	Wed.	Thurs.
Grand Junction	78 48 s	80 56 s	79 50 pc	75 43 pc
Gunnison	69 26 s	70 35 s	68 28 pc	66 22 pc
La Junta	77 52 pc	80 51 pc	83 53 pc	80 50 pc
Leadville	52 29 pc	59 33 pc	58 32 pc	61 29 pc
Limon	66 44 pc	74 43 s	76 42 pc	70 40 pc
Pueblo	76 52 pc	79 48 pc	82 50 pc	78 47 pc
Trinidad	76 47 pc	78 49 pc	80 51 pc	76 48 pc
Vail	55 29 pc	65 36 s	63 35 pc	60 30 pc

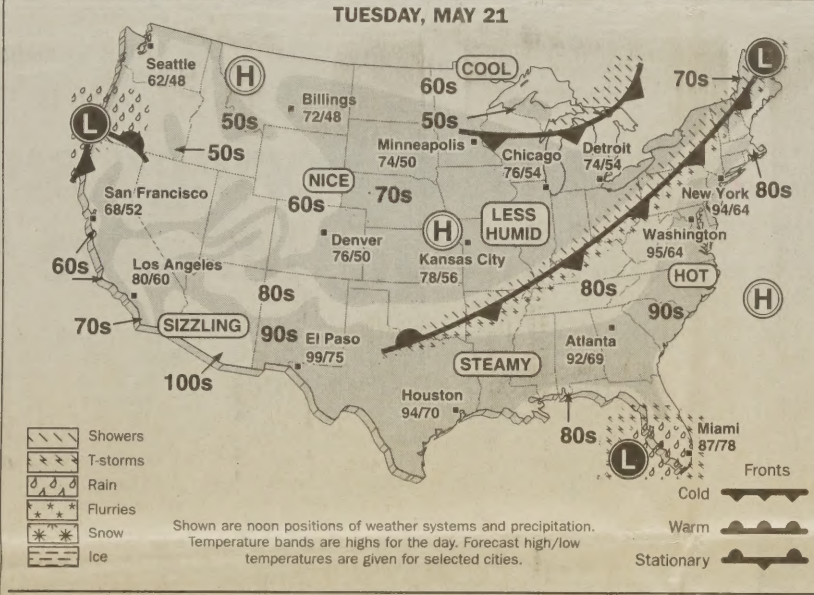
LOCAL STATISTICS

PRECIPITATION	HIGH/LOW (as of 6 p.m.)	SUN
24 hours to 6 p.m. yesterday trace	High Yesterday 66°	Sunrise today 5:42
Total for month to date 0.32"	Low Yesterday 46°	Sunset today 8:10
Normal for month to date 1.33"		Sunrise tomorrow 5:41
Total this year to date 2.03"		
Normal for year to date 4.19"		

TODAY'S RECORDS
High 86° (1954)
Low 33° (1983)

NATION

TUESDAY, MAY 21



Shown are noon positions of weather systems and precipitation. Temperature bands are highs for the day. Forecast high/low temperatures are given for selected cities.

LEGEND: s-sunny, pc-partly cloudy, c-cloudy, sh-showers, t-thunderstorms, r-rain, sf-snow flurries, sn-snow, ice.

City	Yest.	Today	Wed.	Thurs.
Albany, NY	87 62 pc	86 56 t	76 50 pc	71 46 pc
Albq., NM	88 61 s	92 58 s	89 56 s	86 53 s
Amarillo, TX	87 60 s	80 55 pc	84 60 pc	87 55 t
Anchorage, AK	51 48 r	53 45 sh	53 39 pc	57 38 pc
Atlanta, GA	92 70 s	92 69 s	87 65 s	82 67 pc
Atl. City, NJ	99 68 s	90 60 s	80 52 pc	73 49 pc
Austin, TX	92 73 pc	93 70 pc	95 72 pc	95 74 pc
Bangor, ME	80 63 c	81 52 pc	77 47 pc	69 44 pc
Billings, MT	67 46 pc	72 48 pc	67 41 r	55 41 r
Birmingham, AL	93 65 s	90 63 s	91 64 s	86 67 pc
Bismarck, ND	72 43 pc	70 41 s	66 45 c	63 43 r
Boise, ID	64 39 s	68 46 c	66 39 r	64 40 pc
Boston, MA	92 53 pc	95 62 pc	76 52 pc	71 51 pc
Buffalo, NY	79 62 t	70 52 t	70 50 pc	68 47 pc
Burlington, VT	86 73 c	79 55 t	75 48 pc	68 44 pc
Casper, WY	64 30 s	72 45 s	69 38 pc	60 36 r
Charleston, SC	91 70 s	90 66 s	86 67 s	82 67 pc
Charlotte, WV	94 63 s	83 55 t	81 56 s	80 57 pc
Charlotte, NC	96 67 s	92 65 s	86 62 s	79 61 pc
Cheyenne, WY	58 40 pc	68 46 c	67 42 pc	64 39 pc
Chicago, IL	72 59 t	76 54 pc	76 52 t	72 52 pc
Cincinnati, OH	92 70 s	80 55 t	79 56 s	77 59 pc
Cleveland, OH	88 73 t	73 53 t	75 50 s	72 50 pc
Concord, NH	87 55 pc	88 55 t	76 47 pc	73 42 pc
Dallas, TX	92 73 pc	92 68 pc	92 71 pc	91 71 pc
Des Moines, IA	70 57 r	77 53 s	81 56 pc	75 55 r
Detroit, MI	86 71 sh	74 54 t	75 51 s	70 50 pc
Duluth, MN	72 49 pc	64 43 pc	59 42 c	60 40 pc
El Paso, TX	96 77 s	99 75 s	97 66 s	97 61 s
Fairbanks, AK	55 37 r	60 37 pc	65 40 pc	69 42 pc
Fargo, ND	75 48 pc	69 42 pc	69 47 c	66 44 r
Flagstaff, AZ	70 41 s	75 41 s	72 38 s	69 35 s
Grand Isl., NE	68 58 c	78 53 s	75 55 pc	74 53 t
Hartford, CT	96 64 pc	92 58 pc	78 50 pc	74 47 pc
Hilo, HI	82 70 c	84 66 pc	85 69 pc	85 69 pc
Honolulu, HI	84 76 pc	85 70 pc	86 74 pc	86 73 pc
Houston, TX	92 73 s	94 70 pc	94 73 s	92 75 pc
Indianapolis, IN	88 71 pc	74 55 c	79 54 s	78 56 pc
Jackson, MS	90 65 s	90 63 s	91 67 s	89 71 pc
Jacksonville, FL	92 71 pc	88 68 pc	88 70 pc	86 70 pc
Kansas City, MO	77 62 c	78 56 s	84 61 pc	80 59 pc
Las Vegas, NV	91 64 s	92 66 s	90 64 s	89 63 s
Little Rock, AR	90 68 s	89 61 pc	87 65 s	85 68 pc
Los Angeles, CA	78 56 s	80 60 s	76 58 s	84 56 s
Louisville, KY	91 73 s	80 56 t	79 58 pc	81 63 pc
Memphis, TN	92 71 s	84 62 pc	89 67 s	87 69 pc
Miami, FL	87 75 t	87 78 r	88 77 t	88 80 t
Milwaukee, WI	72 63 sh	74 52 pc	73 50 s	62 50 pc
Minneapolis, MN	68 56 r	74 50 s	72 51 pc	71 50 r
Nashville, TN	93 67 s	88 57 pc	88 63 s	84 68 pc
New Orleans, LA	88 68 s	89 68 s	89 72 s	89 74 pc
New York, NY	97 77 s	94 64 pc	80 60 pc	73 57 pc
Oklahoma City	90 72 s	83 63 pc	86 67 c	83 67 pc
Omaha, NE	64 61 r	78 51 s	81 57 pc	77 55 r
Orlando, FL	93 73 pc	91 70 t	89 70 t	94 72 t
Philadelphia, PA	98 65 s	95 63 s	84 56 s	75 54 pc
Phoenix, AZ	99 74 s	103 75 s	100 72 s	98 70 s
Pittsburgh, PA	92 70 s	82 54 t	75 51 s	74 52 pc

CANADA

City	Yest.	Today	Wed.	Thurs.
Calgary, Alb.	61 43 r	57 41 r	63 40 pc	68 43 pc
Edmonton, Alb.	55 37 pc	59 35 pc	64 33 pc	64 33 pc
Montreal, Que.	81 50 t	78 54 t	70 48 pc	67 48 pc
Ottawa, Ont.	76 48 t	72 48 t	70 46 pc	67 46 pc
Toronto, Ont.	82 48 t	70 50 t	72 46 pc	70 46 pc
Vancouver, B.C.	59 50 sh	60 48 sh	62 50 sh	65 54 pc
Winnipeg, Man.	57 50 r	59 43 sh	62 40 pc	63 37 pc

WORLD

City	Today	City	Today
Acapulco	89 77 pc	Madrid	72 46 s
Amsterdam	54 46 sh	Manila	93 77 c
Athens	86 68 s	Mexico City	79 52 pc
Beijing	88 62 s	Moscow	79 55 s
Beirut	81 65 s	Nassau	84 77 t
Berlin	57 45 sh	Oslo	54 41 s
Brussels	57 41 sh	Paris	59 45 pc
Buenos Aires	63 54 s	Rio de Janeiro	82 72 sh
Cairo	89 59 s	Riyadh	106 79 s
Copenhagen	54 42 r	Rome	70 45 s
Dublin	53 49 r	San Juan	86 74 pc
Geneva	59 47 c	Seoul	68 54 pc
Hong Kong	86 75 c	Stockholm	50 34 pc
Jerusalem	82 59 s	Sydney	67 51 s
Kuwait	109 81 s	Tokyo	73 54 c
London	57 45 c	Warsaw	57 50 sh

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Mike Madson's DAILY WEATHER EYE

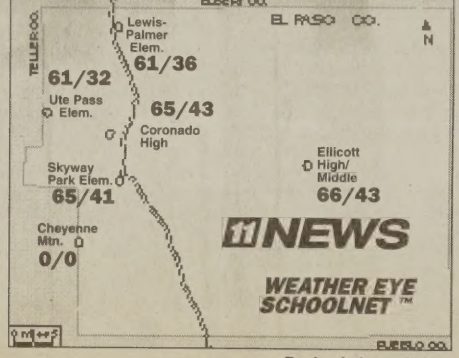
The cold front that moved across the state on Sunday kept temperatures cool on Monday. (See the SchoolNet Data section below). Today will start with areas of low clouds and fog, but some sun breaking through later will allow highs to climb to just about average. The wind will increase and boost temperatures on Wednesday with cooler, wetter weather on tap for Thursday and Friday.

Today: Clouds early, then partly cloudy. High 70.
Tonight: Variable clouds. Low 45.
Wednesday: Windy at times. High 77.

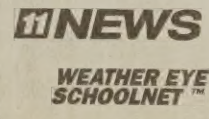
Extended Outlook

Thursday: Showers and thunderstorms. High 65. Low 40.
Friday: Showers. High 60. Low 40.
Saturday: Variable clouds. High 60. Low 40.

SCHOOLNET STATIONS



Location:	Yest.	Peak wind (speed/direction)	Yest. precip.
Lewis-Palmer Elem.	61 36	20/N	0.00"
Ute Pass Elem.	61 32	18/SSE	0.00"
Coronado High	65 43	29/NNW	0.00"
Skyway Park Elem.	65 41	26/N	0.00"
Ellicott High/Middle	66 43	39/NW	0.00"
Top of Cheyenne Mtn.	0 0	0/NW	0.00"



SCHOOLNET FACTS

Cool air lingered in the Pikes Peak region on Monday, holding the warmest reading to 66 degrees at Ellicott. The strongest wind gust was 39 mph at Ellicott.

HIGH COUNTRY SUNSOR READING 60

Use the descriptions below to determine your skin type, and use the maximum forecast SunSor reading to help you avoid a sunburn. Forecast is based on readings at Monarch.

SUNSOR SKIN TYPE

Skin Type Definitions	Skin Reactions (from overexposure to UV in hours)
1 very light skin	Burn Time 0:33
2 medium skin	Burn Time 1:23
3 medium to olive skin	Burn Time 1:57
4 dark olive skin	Burn Time 4:52
5 dark skin	Burn Time 5:29
6 very dark skin	Burn Time 5:29

CITYLINE NUMBERS

Call 630-1111. It's a free call.

Mike Madson's Local Forecast 9101
Extended Local Weather outlook 9102
Aviation Weather 9103
Colorado Road Conditions (updated by Colorado State Patrol) 7623
Colorado Ski Conditions 7669
(updated by Colorado Ski Country USA)
National Ski Conditions 7544
National City Weather Forecasts 6819

CORRECTIONS

The Gazette Telegraph strives to be accurate and complete in its coverage. Error of fact or omission will be corrected promptly. To notify an editor about a mistake, call 636-0266.

KENO

MONDAY NIGHT'S NUMBERS:			
1	19	21	22
23	26	30	32
39	41	43	45
46	49	52	53
55	56	57	58

"A state cannot so deem a class of persons a stranger to its laws."
— Justice Kennedy

2 AMENDMENT 2 THE DECISION

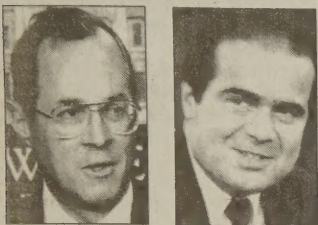
"The amendment prohibits special treatment of homosexuals, and nothing more."
— Justice Scalia

Decision/Scope is limited

Amendment 2,

approved by Colorado voters in 1992, would have banned laws protecting gays from discrimination based on their sexual orientation. On Monday, the U.S. Supreme Court ruled the amendment unconstitutional because it cut one group out of the political process.

POINT BY POINT



Justices Anthony Kennedy, left, who wrote the court's majority opinion, and Antonin Scalia, who authored the dissenting opinion.

Colorado's Amendment 2 was struck down by a 6-3 majority of the U.S. Supreme Court. Here's a point-by-point summary of the key arguments state attorneys made to defend the amendment and how the court responded. The court's opinion was written by Justice Anthony M. Kennedy.

■ WHAT THE STATE ARGUED:

Amendment 2 puts gays and lesbians in the same position as other people — denying them not equal rights but only "special rights."

■ WHAT THE COURT SAID:

"We find nothing special in the protections Amendment 2 withholds. These are protections taken for granted by most people either because they already have them or do not need them; these are protections against exclusion from an almost limitless number of transactions and endeavors that constitute ordinary civic life in a free society."

■ WHAT THE STATE ARGUED:

Colorado voters passed Amendment 2 not out of animosity toward gays but for legitimate reasons, such as protecting citizens' freedom not to associate with homosexuals and conserving resources to fight discrimination against other groups.

■ WHAT THE COURT SAID:

"The breadth of Amendment 2 is so far removed from these particular justifications that we find it impossible to credit them. . . . We must conclude that Amendment 2 classifies homosexuals not to further a proper legislative end but to make them unequal to everyone else."

■ WHAT THE STATE ARGUED:

Amendment 2 prohibits gays only from obtaining the protection of anti-discrimination laws; it doesn't exclude them from the general laws that protect all citizens, such as the wrongful-discharge laws that prohibit employers from arbitrarily firing employees.

■ WHAT THE COURT SAID:

"It is a fair, if not necessary, inference from the broad language of the amendment that it deprives gays even of the protection of general laws and policies that prohibit arbitrary discrimination in governmental and private settings."

■ WHAT THE STATE ARGUED:

Amendment 2 could stand up to the most stringent legal standard — and certainly withstand the normal level of review, which requires that laws have "rational" reasons behind them.

■ WHAT THE COURT SAID:

"Amendment 2 confounds this normal process of judicial review. It is at once too narrow and too broad. It identifies persons by a single trait and then denies them protection across the board."

■ HOW THEY VOTED

IN THE MAJORITY: Justices Kennedy, Stephen Breyer, David Souter, Sandra Day O'Connor, Ruth Bader Ginsberg and John Paul Stevens.

DISSENTERS: Chief Justice William Rehnquist and Justices Clarence Thomas and Scalia.

From A1 officer, dressed in full uniform for a news conference. And John Miller, the University of Colorado at Colorado Springs professor, let out a whoop in front of his TV set. He thought they would win on a 5-4 vote.

But it wasn't that close.

All three of the courts so-called "swing" justices — Sandra Day O'Connor, David Souter and Kennedy — joined the liberal wing of the court to strike down the law.

"We're ecstatic the Bill of Rights in our country is still alive and well," said Denver attorney Mary Celeste, head of the Colorado Legal Initiatives Project, which spearheaded the court battle against the initiative.

The only ones more stunned than gay rights activists were Amendment 2's supporters, who had been fairly confident that a Supreme Court that only recently had curtailed the remedies of civil rights for racial minorities would rule in favor of gays.

"The court's decision is insulting to Colorado voters," said an unusually terse Attorney General Gale Norton, whose office spent about \$420,000 defending the measure. "It mocks the democratic process."

Will Perkins, chairman of Colorado for Family Values, the Colorado Springs group that authored Amendment 2, called it "a chilling day for our children."

"The results of today's decision could so deeply impact our entire culture that there may actually be an outcry from the people for Congress to impeach some of these justices."

In a practical sense, the court's opinion changed little. It upheld local anti-discrimination laws already on the books in Denver, Boulder and Aspen — as well as several state laws protecting homosexuals — but it afforded gays no new protection.

The court didn't guarantee it would — as one gay rights opponent put it — "close the lid" on the entire movement. Several measures are still alive across the nation — including one

passed by voters in Cincinnati. Perkins said his group hasn't ruled out a second, more carefully worded try — but would not elaborate.

And the core issues of the gay rights movement loom large, from the military's ban on open homosexuality to Colorado's prohibition on gay marriage. The high court didn't touch upon any of those contentious issues in its decision. Legal experts remain divided about what bearing the Colorado case will have on them. Some believe it's a strong signal the court, which 10 years ago ruled that homosexual sodomy is a crime, has had a change of heart about gay rights.

"This indicates much more sensitivity," said professor Laurence Tribe of the Harvard Law School, whose "friend of the court" brief on Amendment 2 was cited by Kennedy.

Others aren't so sure. Amendment 2, they said, was not a good test case.

"The thing that enabled the court to reach this decision is

this law was just way out there," said Pamela Karlan, a law professor at the University of Virginia.

Indeed, the court focused solely on the right of gays to work within the political and legal systems, seeking laws that benefit them.

"A law declaring that in general it shall be more difficult for one group of citizens than for all others to seek aid from the government is itself a denial of equal protection of the laws in the most literal sense," Kennedy wrote.

The high court adopted the rhetoric of an earlier Colorado Supreme Court decision — but without the lower court's potentially sweeping implications.

By declaring that gays had "a fundamental right" to participate in democratic institutions, the Colorado Supreme Court's decision to strike down Amendment 2 could have had far-reaching precedents for other areas of the law.

But the U.S. Supreme Court didn't even address that argu-

ment. Instead, it struck down Amendment 2 under the lowest standard of judicial review.

The court ruled that Amendment 2 appeared motivated solely by a desire to make gays "unequal to everyone else."

Scalia, however, countered that the majority opinion "places the prestige of this institution behind the proposition that opposition to homosexuality is as reprehensible as racial or religious bias."

The invective language was a sign that the battle over gay rights is far from finished. Not in the Supreme Court. And not on the streets.

"This is not a time to extend the arm of friendship," Rabbi Steven Foster, a strong opponent of Amendment 2, cried to a crowd gathered at the state Capitol on Monday night. "This is still a war, and it has not been won."

Gazette Telegraph staff writer Genevieve Anton and news services contributed to this report.

Kirk Speer/Gazette Telegraph



Frank Whitforth, left, executive director of Ground Zero, hugs Associate Director Julie Cooper after their press conference Monday to announce the U.S. Supreme Court's

ruling that Colorado's Amendment 2 is unconstitutional. Gay rights activists in Denver and Colorado Springs celebrated the decision.

Middle ground/End to 4-year fight urged

From A1 the head of Temple Shalom and himself conflicted over Amendment 2. "That means we have to look beyond the rhetoric. . . . I think we really have to concentrate on elementary human decency here."

There's no guarantee that will happen, of course. As many voices across the spectrum were calling for healing, there were some influential ones fanning the flames of controversy Monday.

They called it an unfinished war, a slap in the face of voters, a clear sign of America's plunge into moral darkness.

Others said the ruling would inspire anti-gay sentiment in the form of hate crimes, job retribution and housing discrimination.

But a large, less vocal chorus said it's time to drown out the divisiveness and spare the great majority of Colorado Springs residents who find themselves in the middle of a four-year shouting match.

The ruling won't end disagreements on the issue — a fact emphasized by a broad array of community leaders, private citizens and activists.

But disagreement is OK, they said. The key to civility is to embrace the idea that members of the community can disagree politely while working harder to understand one another.

"You can disagree without feeling you're at war," said Randy Raysbrook, a director of leadership development with the Navigators, a nondenominational Christian organization in Colorado Springs. "That's something the community has to learn — how to have healthy disagreement that doesn't hurt people."

Almost everyone outside of the extreme camp says one thing is cru-

cial to improving the debate: Bringing in moderate perspectives, people who can step outside of the passion of either side and offer a calming critique of the issue.

"The key is to encourage more voices from all different segments of the community to be heard and to try to hear each other as neighbors — not as enemies," said Amy Divine, a Colorado Springs resident who organized Food for Thought, a program that brings people of varying views together for quiet dinners, out of the spotlight.

"There are a million different voices here, but we don't allow them to speak," said Walter, executive director of the Smokebrush Center for Arts and Theater.

Providing creative venues like the Smokebrush for discussions about political issues has "made Colorado Springs a place to be — not a place to flee."

Thinking about how others view issue can aid healing

Another part of healing, many say: Recognize there are people whose point of view you can't change. Recognize that not even the Supreme Court — no matter how it rules — can't legislate people's conscience. Then accept what you can't change, listen and work hard to understand why people feel as strongly as they do.

"I think they need to just stop and realize that each one of them are individuals. They're human beings. They should stop and stand in the other person's shoes, and they might see themselves," said Erica Tafoya while eating lunch in a downtown park Monday. "We have differences but when it comes down to it, we're all human beings."

Most agree there are steps peo-

ple can take to help mend community wounds.

Some Amendment 2 supporters, for example, suggested that they tone down hateful rhetoric themselves. After all, they said, it's not fair to draw conclusions about gays based on stereotypes.

Some gays, meanwhile, suggested they shouldn't be as flamboyant. They also said they shouldn't stereotype all Amendment 2 backers as "homophobes."

"The majority of people don't want to hate or be prejudiced," said Joe Brady, owner of the Hide N' Seek, the oldest gay bar in Colorado Springs. He said people need to extend an olive branch. "I don't think we're that far apart."

Zimmerman has discussed Amendment 2 with people of an array of beliefs. She said both sides need to meet each other in private settings "without preconceived ideas or finger-pointing."

"I think the community can do it," she said. "It's not going to be easy. . . . It helps when there's a facilitator and somebody to make sure the tone remains civil, (an environment) where you can express your hopes and fears."

Gerda Fletcher, a Colorado Springs mother who has a gay son, said everyone involved in the debate must stop name-calling.

"It doesn't matter if a person is obese, and everybody calls them names, or if a child is a slow learner and being called names, or if a gay person or Hispanic person or black person is being called names," Fletcher said. "Discrimination is simply wrong."

Hirsch said everyone needs to respect the decision of the Supreme Court and overcome feelings of animosity. The way each group reacts to Monday's ruling will be key to

the future, he said.

"I just hope people who support Amendment 2 will accept the decision. I'm also hopeful people against it will not gloat," he said. "We'd be back to square one."

Many call for timeout before community discusses ruling

Many said the community should take a long timeout to gather its collective breath before taking further action in either direction.

"I plan to encourage both sides to hold off on discussing (the ruling). They need to allow the marketplace to cool," said Jerome Page, executive director of the Urban League of the Pikes Peak Region. "They need to allow regular people a chance to figure out what's in their heads and hearts."

Buck Blessing, a Colorado Springs real-estate investor and landlord who said he understood the concerns of both sides of the debate, said dwelling on the ruling would be a mistake.

"I'd like to see the community focus on some other things for a while," he said.

Colorado Springs residents, especially, need to resist the notion that the debate was a referendum on the personality of their city.

"It's important for the people of Colorado Springs to know it's not about them because it isn't," said Chris Gates, president of the National Civic League, a Denver-based group that mediates community disputes.

"It's about our system, our Constitution," he said. "What was in debate here was not whether Colorado Springs is a good or bad place but about how, as a people, we choose to live with each other."

"You can disagree without feeling you're at war. That's something the community has to learn — how to have healthy disagreement that doesn't hurt people."

Randy Raysbrook, a Navigators director

"The amendment seems inexplicable by anything but animus toward the class that it affects."

— Justice Kennedy

AMENDMENT 2 THE DECISION

"This court has no business imposing upon all Americans the resolution . . . that 'animosity' toward homosexuality is evil."

— Justice Scalia

Amendment 2,

approved by Colorado voters in 1992, would have banned laws protecting gays from discrimination based on their sexual orientation.

On Monday, the U.S. Supreme Court ruled the amendment unconstitutional because it cut one group out of the political process.

"Hopefully we can stop litigating this matter and get on with the business of finding a way to understand the issue better and reconcile our differences."

Gov. Roy Romer

"As we get legal counsel and we can study this issue and when we look and see what our options are, if we have an option to present another amendment to the state, we will do that."

Will Perkins,
chairman of Colorado
for Family Values

"It's been a long and divisive process. I would hope we could put it behind us and move forward."

Tom Strickland,
U.S. Senate candidate

"I can't even begin to tell you what this decision does, not just for gay rights but to slow down a whole spirit of meanness in our country."

attorney Jean Dubofsky,
who represented challengers
to Amendment 2

"The people in the middle must stay focused. We can't let the fringe elements take over the debate. A small fringe shouldn't be able to sway a strong middle."

Jerome Page,
executive director, Urban League
of the Pikes Peak Region

"Today the United States Supreme Court revealed that it bought the myth that Colorado is the hate state."

Attorney General
Gale Norton,
who argued in favor
of Amendment 2 on behalf
of the state

"What does it change? I don't know that it's something that a law can change. It has to do more with a change of consciousness."

Maggie Siegel
Colorado Springs

By Rich Laden,
Scott Thomsen
and Angela Dine
Gazette Telegraph

Amendment 2 is dead, but the gay rights debate lives on in Colorado and elsewhere.

Colorado for Family Values, the Colorado Springs group that authored Amendment 2, said it might go to voters with another version of the measure that was struck down Monday by the U.S. Supreme Court.

"As we get legal counsel and we can study this issue and when we look and see what our options are, if we have an option to present another amendment to the state, we will do that," said Will Perkins, chairman of Colorado for Family Values.

What a revised measure would say or how it would be written to live within the legal framework laid out by the court is uncertain, Perkins said. In any case, he said, he would seek to produce a similar result in the eyes of Amendment 2 backers: prevent society from being forced to embrace homosexuality.

Opponents of Amendment 2 said they'll fight any new measures.

Because of legal hurdles, however, people on both sides of the debate agree that future battles are more likely to be fought over specific issues such as same-sex marriages, adoption, school curriculum, child custody and gays in the military.

"The legal details will be debated, but the ruling's immediate impact is clear enough: No state in the country may amend its constitution to bar the granting of special rights for homosexuals," said Gary L. Bauer,

president of the Washington, D.C.-based Family Research Council, which backed Amendment 2.

So, Bauer said, the decision highlights the need for national legislation preventing same-sex marriages. "Otherwise, marriage itself will be redefined radically by unrestrained judges."

Jon Davidson, a supervising attorney for the Lambda Legal Defense and Education Fund in Los Angeles, said gay rights activists expect such counterattacks. And Monday's court ruling could help opponents there, too.

"The opinion has very strong consequences for all sorts of laws affecting gays and lesbians," said Davidson, who opposed Amendment 2. "I think it will have an impact. I don't think it will decide it."

Along with new kinds of ballot initiatives, Scot Nakagawa, a spokesman for the Washington, D.C.-based National Gay and Lesbian Task Force, said more Amendment 2-like measures will be proposed. He expects them this year in Oregon, Idaho, Maine and perhaps Washington.

Even if Colorado for Family Values was to try another ballot measure, the legal and political hurdles will be great, said Mark Tushnet, associate dean of the Georgetown University Law School.

"Creative lawyers can come up with things, I'm sure, but it's not going to be easy," he said.

The Supreme Court's decision, Tushnet said, leaves groups such as Colorado for Family Values with a dilemma: To satisfy the court, they must craft an initiative that doesn't single out gays. But if they target other groups

in addition to gays, then they increase their political opposition.

In Maine, for instance, a recent initiative had the same purpose as Amendment 2 but more neutral language. It ran into opposition not only from gays but from the disabled.

"The Maine initiative tried to be broad and, as a result, it faced substantial political opposition and lost," Tushnet said. "If you do what seems necessary to satisfy the Supreme Court, you're not going to be able to satisfy the electorate."

Colorado Springs attorney Greg Walta said he doesn't think people want a repeat of the past four years.

"I think they're wasting their time and they're wasting the voters' time and they're stirring the bitter brew they created in this town," said Walta, an Amendment 2 foe. "I don't think people want that."

Some Amendment 2 opponents offered an olive branch to Colorado for Family Values.

Ground Zero, a Colorado Springs gay rights advocacy group, said it would not initiate any ballot measures aimed at enhancing protections for homosexuals for at least two years. The group also offered to engage in civilized discussions of the issues to avoid contentious rhetoric.

Frank Whitworth, Ground Zero's executive director, said he hopes to start what he called a healing process by launching a public education campaign.

"Our job is to let people in the community know who we really are," he said. "We are a part of the community. We have always been a part of the community, but for years we refused to admit who we are."

Carol Lawrence/Gazette Telegraph



Amendment 2 supporter dismayed

Kevin Tebedo talks to reporters after a Colorado for Family Values news conference on Monday. Tebedo was co-founder of the group although he is no longer affiliated with it. "The Supreme Court

ruling today basically affirms the laws and the foundation of laws in this nation have dumped any form of a higher moral code," he said of the Amendment 2 ruling.

COMMENTARY

Decision makes professor 'a proud American'

Like so many warriors of the past, John Miller enjoyed perhaps his greatest surge of American pride while standing on foreign soil.

"I'm a proud American, today," said Miller, who spoke by telephone from Mexico.

"This again emphasizes the American dream of a political process that works through individuals."

Miller is one of those individuals. And the war that he has been fighting for nearly four years has been to overturn Amendment 2.

Immediately after the ballot initiative was passed by Colorado voters in November 1992, the 58-year-old University of Colorado-Colorado Springs professor joined the initiative, which would have banned laws protecting gays from discrimination based on their sexual orientation.

Since then, Miller has enjoyed a series of victories. In December 1993, a Denver judge ruled Amendment 2 was unconstitutional.

The Colorado Supreme Court agreed — and now the U.S. Supreme Court has, too.

Miller, who is vacationing in Mexico, had just returned from the beach Monday evening when he saw a TV broadcast about the decision.

"I just screamed, 'Oh great,' and just jumped up," he said.



RAYMOND
MCCAFFREY

"I am just so pleased with the decision."

Miller went to Washington, D.C., to hear the oral arguments before the Supreme Court. Afterward, he spoke of how moved he was while sitting in front of the court.

In particular, he pointed to his "working-class background."

He was the first one of his parents' 10 children to go to college. Miller married the sister of a roommate in graduate school, and children followed. Eventually, Miller would teach college himself.

In 1987, after earning his doctorate in Spanish, he got a job heading the Languages and Cultures Department at CU-Colorado Springs.

This was a somewhat traditional success story except that along the way, Miller took a somewhat different path — one that led him to explore his homosexuality. He now lives with his "life partner."

Soon after moving to Colorado Springs, he placed a notice in a local gay and lesbian newspaper — the subject was a meeting at his house to discuss how to get a gay rights law in Colorado Springs.

The city's Human Relations Commission eventually came up with an anti-discrimination proposal in 1991 that covered gays, among others. It was rejected by the City Council, but opponents continued their fight statewide and formed Colorado for Family Values.

The result was what came to be known as Amendment 2 — and one of the most divisive periods in Colorado history.

And yet as of late, Miller has been heartened by evidence of conciliation he has viewed in the community.

In particular, he was heartened by those he came in contact with while working to bring The Names Project AIDS Memorial Quilt to the community last weekend.

"We had a very positive reaction," he said.

"I think the Colorado Springs community recognizes the importance of individual rights."

Indeed, the name-calling has quieted. But people are still talking — and yelling — about gay rights.

Earlier this year, a bill passed by the Colorado General Assembly that would have banned the recognition of same-sex marriages was vetoed by Gov. Roy Romer — but only after a lot of familiar controversy.

And the defeat of Amendment 2 isn't likely to change that feeling, at least in the view of Will Perkins, chairman of Colorado for Family Values.

"I think this will be an important issue in the campaign for the presidency," Perkins said.

But John Miller wasn't talking about campaigns Monday. Miller was talking about a celebration — in particular, he planned to have dinner with his partner and his partner's sister.

Miller was basking in victory — and the warm Mexican sun.

"My belief during the entire process is that we have a system of checks and balances," he said.

"I really have always had a belief that societal change in the American political process depends on the individual."

Raymond McCaffrey's column regularly appears on Monday, Wednesday and Friday.

AMENDMENT 2 THE TIMELINE

1991

FEB. 1: Denver city anti-discrimination ordinance changes to include gays and lesbians.

JUNE 14: Colorado for Family Values incorporates to prepare initiative to amend the state Constitution. The amendment would forbid laws protecting gays and lesbians from discrimination based on their sexual orientation.

JUNE 25: City Council votes 8-1 to reject civil rights ordinance, that includes sexual orientation, proposed by Human Relations Commission.

JULY 31: Colorado for Family Values submits Amendment 2 language to state to prepare petition drive to qualify the measure for the November 1992 ballot.

1992

MAY 12: Colorado for Family Values succeeds in qualifying amendment for the ballot.

NOV. 3: Colorado voters approve Amendment 2 with 53 percent of the vote. In El Paso County the measure passes with 66 percent.

NOV. 12: A lawsuit is filed challenging the amendment's constitutionality.

NOV. 23: The group Boycott Colorado forms in Denver.

DEC. 10: Critics of Amendment 2 form Ground Zero to focus the budding nationwide boycott of Colorado on Colorado Springs.

DEC. 17: Colorado Springs Mayor Robert Isaac appeals to the U.S. Conference of Mayors not to shift its annual convention from Colorado Springs, but the group chooses another city.

1993

JAN. 4: BACK OFF Colorado Committee is formed by a Colorado Springs resident to target cities, groups and celebrities who endorse the boycott of Colorado.

JAN. 11: Opening arguments begin in Denver District Court on an injunction to halt the amendment from becoming law until the lawsuit is settled.

JAN. 15: Judge Jeffrey Bayless grants a temporary injunction preventing the amendment from becoming law until the courts decide whether the measure is constitutional.

FEB. 3: Colorado Springs attorney Greg Walta proposes a compromise to Amendment 2 that attempts to protect homosexuals from discrimination without granting them special rights.

MARCH 15: Greg Walta withdraws his compromise proposal to Amendment 2, citing lack of support from Denver, Boulder and Aspen — cities where ordinances protecting gays and lesbians from discrimination are in place.

JULY 19: The Colorado Supreme Court rules there is a strong likelihood that Amendment 2 would be ruled unconstitutional, so the measure should not go into effect until the courts make that decision.

OCT. 12: Trial over constitutionality of Amendment 2 begins in Denver.

NOV. 1: U.S. Supreme Court refuses to review Colorado's appeal of Judge Bayless' injunction keeping Amendment 2 from taking effect until the challenge is decided in court.

DEC. 14: Judge Bayless declares Amendment 2 unconstitutional, but also refuses to extend to gays the sweeping protections courts have granted to minorities. Boycott lifted.

1994

FEB. 4: Gov. Roy Romer announces Colorado will appeal Judge Bayless' ruling to the state Supreme Court.

JUNE 30: Colorado Supreme Court hears oral arguments about the constitutionality of Amendment 2.

OCT. 11: The state Supreme Court rules Amendment 2 is unconstitutional.

DEC. 9: Colorado appeals state Supreme Court ruling to the U.S. Supreme Court.

1995

FEB. 21: U.S. Supreme Court agrees to use Amendment 2 case to determine whether states may ban gay-rights laws.

OCT. 10: U.S. Supreme Court hears oral arguments.

NOV. 6: Colorado for Family Values Director Kevin Tebedo resigns.

1996

MAY 20: U.S. Supreme Court rules Amendment 2 unconstitutional.

Source: Gazette Telegraph research

"It identifies persons by a single trait and then denies them protection across the board." — Justice Kennedy

2 AMENDMENT 2 THE DECISION

"It is ridiculous to consider this a denial of equal protection." — Justice Scalia

Decision could hurt campaign

Norton in the race for U.S. Senate seat

By Pam Zubeck
Gazette Telegraph

Opinions about how the long-awaited U.S. Supreme Court decision on Amendment 2 will affect the political landscape in Colorado are as extreme as the diametrically opposed camps for and against the measure.

While the case thrust Colorado Attorney General Gale Norton into the national spotlight, she may take heat over Amendment 2 during her bid for a U.S. Senate seat.

Norton, who was obligated to defend Amendment 2 on behalf of the state, said the high court mistakenly "bought the myth that Colorado is the hate state."

She called the decision a mockery of the democratic process and "insulting to the Colorado voter."

Norton also denied that Amendment 2 will become a political issue as she vies for the Republican nomination for U.S. Sen. Hank Brown's seat.

"I did my job as attorney general," she said. "I'm proud of the job we did. I will stand on my record and on our performance."

But her performance is being called into question by at least one political opponent.

"It won't help her from a political perspective," said Dick Wadhams, who manages U.S. Rep. Wayne Allard's Senate campaign.

Wadhams said the decision is Norton's third major loss before a high court. She lost a lawsuit filed by Kansas over Arkansas River water and another on Medicaid funding of abortions, he said.

Tim Tymkovich, Norton's solicitor general, said the Arkansas River case, decided May 15, 1995, was handled by outside counsel hired before Norton came to office. He also said Norton has won several significant high-court cases, among them the right to place a Ten Commandments monument outside the state Capitol.

Democratic candidate Gene Nichol said Norton will suffer because of her views on Amendment 2.

"The attorney general's positions are inconsistent with our constitutional aspirations and with the values of the people of Colorado," Nichol said.

He predicted that not only gay rights but such related issues as affirmative action, separation of church and state and abortion rights will shape the Senate race.

Richard Evans, the chief individual plaintiff in the challenge to Amendment 2, said homosexuals will be galvanized after the Supreme Court decision.

"The gloves come off on this one, folks," he said.

While one political expert said Norton's campaign may suffer a monetary setback, another said it's ridiculous to blame the attorney general.

Norton was awash in publicity for defending Amendment 2, which got the attention of out-of-state conservative groups, said Dan Smith, a University of Denver political science professor.

"Now that money might not be coming her way," he said.

Paul Talme, president of Boulder-based polling firm Talme-Drake Research & Strategy Inc., said criticism of Norton is misplaced.

"She doesn't pick her cases," he said. "She didn't have a choice whether she agreed or disagreed. Can you imagine attacking somebody for supporting the side that the majority of the people of Colorado voted for?"

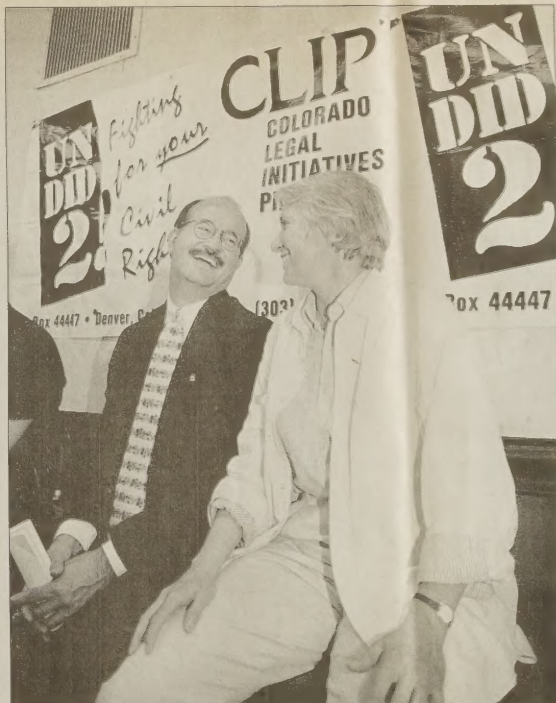
Talme predicted Amendment 2 won't be a factor in the Senate campaign. "It's a hot potato that nobody wants to hold for very long."

Another Democratic candidate for the Senate seat, Tom Strickland, said voters have wearied of the Amendment 2 controversy and it's time to debate the real issues like balancing the budget, education and the environment.

"I hope this decision puts the issue to rest," he said.



Colorado Attorney General Gale Norton, left, and Solicitor General Tim Tymkovich answer questions in Denver on Monday about the U.S. Supreme Court's Amendment 2 ruling. Norton called the ruling "insulting to the Colorado voter."



Richard Evans, left, and Priscilla Inkpen, both of Denver and plaintiffs in the lawsuit to overturn Amendment 2, are all smiles after a news conference Monday in Denver. Evans was angered by Attorney General Gale Norton's reaction to the lawsuit.

Colorado's tab for defending Amendment 2 tops \$400,000

Gazette Telegraph

It cost Colorado about \$420,000 to defend its position on Amendment 2.

It was a necessary expense, Attorney General Gale Norton said Monday. She said her office had no choice but to go all the way to the U.S. Supreme Court.

"It wasn't a political decision," said Norton, a Republican candidate for the U.S. Senate. "It was a question of my responsibility as the attorney defending the voters of Colorado to see that we exhausted every legal avenue available."

The price tag, Norton said, is relatively small for such a complex case. The state kept costs down, she said, by using in-house attorneys, accepting affidavits from some witnesses to avoid travel costs and even staying with friends to cut travel expenses in Washington, D.C.

Norton told a Denver newspaper in October 1994 that it would cost the state up to \$325,000 to take the Amendment 2 case to the Supreme Court. The price tag, she said at the time, was in line with costs for other major cases such as litigation involving use of Arkansas River water.

But the Amendment 2 price tag isn't final. The Colorado Legal Initiatives Project, which organized the legal challenge to Amendment 2, said it would seek reimbursement from the state for its expenses, which add up to more than \$250,000. That doesn't include fees for attorneys, which weren't specified Monday.

"I just hope people who support Amendment 2 will accept the decision. I'm also hopeful people against it will not gloat. We'd be back to square one."

Rabbi Howard Hirsch,
Colorado Springs Temple Shalom

"I'd like to see the community focus on some other things for a while. Let's focus on other things we can have pride in and rally behind as citizens."

Buck Blessing,
Colorado Springs
real estate investor

"It's a good day and it's a good feeling."

plaintiff Richard Evans

"It's a very dark day for the liberty rights of the American people. The judges seem to be saying that there are some matters so important that we will not allow the American people to decide them."

Gary Bauer,
president of the conservative
Family Research Council

"Gay people never wanted special rights. Just the same rights. They want to be able to get the job they are most qualified for. To live in the best neighborhood that their money can buy. To walk into a hotel and rent a room."

Anna Brodeur, 62,
of Windsor, in town
for CC graduation

"It is a decision that will only make Colorado citizens more angry, and distrustful toward a federal judiciary that they see becoming too liberal and out of touch with the vast majority of Americans."

Rep. Wayne Allard, R-Colo.

"This is an outstanding moral victory. All the way to the Supreme Court the tone of this country has changed with regard to gays and lesbians . . . Gay people are full citizens of this country and have to be treated as such."

Elizabeth Birch,
executive director
of the Human Rights Campaign

"President Clinton believes today's decision was 'appropriate.' Amendment 2 is 'bad policy . . . inconsistent with our common values.'"

Mike McCurry,
White House spokesman



Amendment 2 and the subsequent legal battle over it raised a host of complex issues relating to complicated fields of law. But most of the questions surrounding Amendment 2 are relatively simple. Here are some questions that can be anticipated now that the U.S. Supreme Court has declared the amendment unconstitutional:

Q: As a landlord, am I breaking the law now if I refuse to rent to a homosexual?

A: Not unless you live in a community such as Denver, Boulder or Aspen, where local ordinances prohibit housing discrimination against gays. The state public accommodations law does not protect people on the basis of sexual orientation, and the Supreme Court did nothing to change that.

Q: If I fire an employee or refuse to hire someone because he or she is gay, can I be sued for discrimination?

A: Once again, the three cities have adopted such measures, and they will stand under the court's decision. And Colorado government operates under an executive order from Gov. Roy Romer that prohibits it from discriminating against gays

based on their sexual orientation.

But in the rest of the state, there is no law specifically protecting homosexuals from discrimination on the job. However, one potential recourse for gays is on the horizon. The Colorado Court of Appeals in November upheld a \$91,000 judgment in favor of Denver attorney Richard Borquez, who was fired for being gay. He used what's commonly known as the "smokers' rights law" — which prohibits employers from firing workers for lawful activities away from the workplace.

Q: Are acts of intimidation — known as "hate crimes" — against homosexuals now illegal in Colorado?

A: No. The state's ethnic in-

timidation law applies only to crimes or harassment against people based on race, ethnicity or religion. An effort to add homosexuals to the list was defeated in the state General Assembly this year. The court's decision does not provide any such protection.

Q: What effect does the Supreme Court decision have on efforts to legalize same-sex marriages?

A: It has no direct impact on the issue. State law forbids couples of the same sex to obtain a marriage license. But the issue was heatedly debated by the General Assembly this year, not only as lawmakers passed a law banning same-sex marriages but after

Romer vetoed it. But Monday's Supreme Court opinion that homosexuals cannot be fenced out of the legal and political system may provide ammunition for gays seeking such rights.

Q: Is this the last word on Amendment 2, or will Coloradans be asked to vote on a similar measure in the future?

A: There is always the possibility that Amendment 2 supporters might rewrite it and try to submit the revised version to the state General Assembly for referral to the voters or place it directly on the ballot by collecting petition signatures.

Gazette Telegraph

PRIOR HISTORY: ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF COLORADO.

To the extent, if any, that this opinion permits the use of a form of abstract advocacy of polygamy, it has of course been overruled by later cases. See *Brandenburg v. Ohio*, 396 U.S. 444 (1969) (per curiam). But the proposition that polygamy can be criminalized, and those engaging in that crime deprived of the vote, remains good law. See *Richard A. Ramirez*, 418 U.S. 24, 53 (1974). Beason rejected the argument that "such discrimination is a denial of the equal protection of the laws." Brief for Appellant in *Davis v. Beason*, 01 T. 1889, No. 1261, p. 61. Among the justices joining in *Sutton* were the two whose views in other cases the Court today treats as equal-protection lodestars — Justice Harlan, who was to proclaim in *Plessy v. Ferguson*, 163 U.S. 537, 556 (1896) (dissenting opinion), that the Government "neither knows nor tolerates classes among citizens," and Justice Bradley, who had earlier declared,

See TEXT/A

Text/Amendment 2 decision

from A6

at "class legislation... (is) obnoxious to the prohibitions of the Fourteenth Amendment," Civil Rights Cases, 109 U.S. 3, 24 (1883), quoted ante, at 14 (n3).

(Footnotes)
(n3) The Court labors mightily to get around Beason, see ante, at 12-13, but cannot escape the central fact that the Court found the statute at issue — which went much further than Amendment 2, denying polygamists not merely special treatment but the right to vote — "not open to any constitutional or legal objection," rejecting the appellant's argument (much like the argument of respondents today) that the statute impermissibly "singled him out." Brief for Appellant in Davis v. Beason, O.T. 1989, No. 1261, p. 41. The Court adopts my conclusions that (a) insofar as Beason permits the imposition of adverse consequences based upon mere advocacy, it has been overruled by subsequent cases, and (b) insofar as Beason holds that convicted felons may be denied the right to vote, it remains good law. To these conclusions, it adds something new to claim that "to the extent (Beason) held that the groups designated in the statute may be deprived of the right to vote because of their status, its ruling could not stand without surviving strict scrutiny, a most doubtful outcome." Ante, at 12-13. But if that is so, it is only because we have declared the right to vote to be a "fundamental political right," see, e.g., Dunn v. Blumstein, 405 U.S. 330, 336 (1972), deprivation of which triggers strict scrutiny. Amendment 2, of course, does not deny the fundamental right to vote, and the Court rejects the Colorado court's view that there exists a fundamental right to participate in the political process. Strict scrutiny is thus not in play here. See ante, at 10. Finally, the Court's suggestion that Section 501 of the Revised Statutes of Idaho, and Amendment 2, deny rights on account of "status" (rather than conduct) opens up a broader debate involving the significance of Bowers to this case, a debate which the Court is otherwise unwilling to join, see supra, at 6-9.

(End Footnotes)
This Court cited Beason with approval as recently as 1993, in an opinion authored by the same Justice who writes for the Court today. That opinion said: "Adverse impact will not always lead to a finding of impermissible targeting. For example, a social harm may have been a legitimate concern of government for reasons quite apart from discrimination. . . . See, e.g., . . . Davis v. Beason, 133 U.S. 333 (1890)." Church of Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520, 536 (1993). It remains to be explained how Section 501 of the Idaho Revised Statutes was not an "impermissible targeting" of polygamists, but (the much more mild) Amendment 2 is an "impermissible targeting" of homosexuals. Has the Court concluded that the perceived social harm of polygamy is a "legitimate concern of government," and the perceived social harm of homosexuality is not?

IV
I strongly suspect that the answer to the last question is yes, which leads me to the last point I wish to make: The Court today, announcing that Amendment 2 "defies . . . conventional (constitutional) inquiry," ante, at 10, and "confounds (the) normal process of judicial review," ante, at 11, employs a constitutional theory heretofore unknown to frustrate Colorado's reasonable effort to preserve traditional American moral values. The Court's stern disapproval of "animosity" towards homosexuality might be compared with what an earlier Court (including the revered Justices Harlan and Bradley) said in *Murphy v. Ramsey*, 114 U.S. 15 (1885), rejecting a constitutional challenge to a United States statute that denied the franchise in federal territories to those who engaged in polygamous cohabitation:

"Certainly no legislation can be supposed more wholesome and necessary in the founding of a free, self-governing commonwealth, fit to take rank as one of the co-ordinate States of the Union, than that which seeks to establish it on the basis of the idea of the family, as consisting in and springing from the union for life of one man and one woman in the holy estate of matrimony; the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement." Id., at 45.

I would not myself indulge in such official praise for heterosexual monogamy, because I think it no business of the courts (as opposed to the political branches) to take sides in this culture war.

But the Court today has done so, not only by inventing a novel and extravagant constitutional doctrine to take the victory away from traditional forces, but even by verbally disparaging as bigotry adherence to traditional attitudes. To suggest, for example, that this constitutional amendment springs from nothing more than "a bare desire to harm a politically unpopular group," ante, at 13, quoting Department of Agriculture v. Moreno, 413 U.S. 528, 534 (1973), is nothing short of insulting. (It is also nothing short of preposterous to call "politically unpopular" a group which enjoys enormous influence in American media and politics, and which, as the trial court here noted, though composing no more than 4 percent of the population had the support of 46 percent of the voters on Amendment 2, see App. to Pet. for Cert. C-18.)

When the Court takes sides in the culture wars, it tends to be with the knights rather than the villains — and more specifically with the Templars, reflecting the views and values of the lawyer class from which the Court's Members are drawn. How that class feels about homosexuality will be evident to anyone who wishes to interview job applicants at virtually any of the Nation's law schools. The interviewer may refuse to offer a job because the applicant is a Republican; because he is an adulterer; because he went to the wrong prep school or belongs to the wrong country club; because he eats snails; because he is a womanizer; because she wears real-animal fur; or even because he hates the Chicago Cubs. But if the interviewer should wish not to be an associate or partner of an applicant because he disapproves of the applicant's homosexuality, then he will have violated the pledge which the Association of American Law Schools requires all its member-schools to exact from job interviewers: "assurance of the employer's willingness" to hire homosexuals. Bylaws of the Association of American Law Schools, Inc. Section 6-4(b); Executive Committee Regulations of the Association of American Law Schools Section 6.19, in 1995 Handbook, Association of American Law Schools. This law-school view of what "prejudices" must be stamped out may be contrasted with the more plebeian attitudes that apparently still prevail in the United States Congress, which has been unresponsive to repeated attempts to extend to homosexuals the protections of federal civil rights

laws, see, e.g., Employment Non-Discrimination Act of 1994, S. 2238, 103d Cong., 2d Sess. (1994); Civil Rights Amendments of 1976, H. R. 5462, 94th Cong., 1st Sess. (1976), and which took the pains to exclude them specifically from the Americans With Disabilities Act of 1990, see 42 U.S.C. Section 12211(a) (1988 ed., Supp. V).

Today's opinion has no foundation in American constitutional law, and barely pretends to. The people of Colorado have adopted an entirely reasonable provision which does not even disfavor homosexuals in any substantive sense, but merely denies them preferential treatment. Amendment 2 is designed to prevent piecemeal deterioration of the sexual morality favored by a majority of Coloradans, and is not only an appropriate means to that legitimate end, but means that Americans have employed before. Striking it down is an act, not of judicial judgment, but of political will. I dissent.

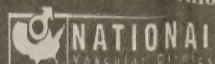
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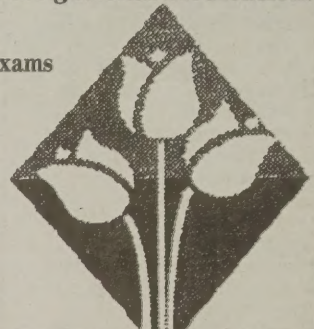
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SUPREME COURT

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Associated Press
WASHINGTON — The Supreme Court poured cold water on huge jury awards aimed at punishing or deterring misconduct Monday in a ruling that could save billions for American business.

The court, voting 5-4, struck down as "grossly excessive" a \$2 million punitive-damages award won by an Alabama doctor dissatisfied with his BMW sedan because it had been partly repainted to touch up damage that occurred in shipping. There had been testimony that about 1,000 other BMWs were sold, mostly outside Alabama, with similar undisclosed paint jobs.

The huge award won in an Alabama court violated the car manufacturer's due-process rights, the justices said in perhaps their most important ruling to date on a thorny issue: How much is too much?

While the court was "not prepared to draw a bright line marking the limits of a constitutionally acceptable punitive-damages award," its 26-page majority opinion gave judges nationwide a road map for determining whether juries overstep limits.

"A state may not impose economic sanctions on violators of its laws with the intent of changing . . . conduct in other states," Justice John Paul Stevens wrote for the court.

U.S. Chamber of Commerce general counsel Steve Bokart said, "This is the victory business has been waiting for."

Jerry Jasinowski, president of the National Association of Manufacturers, agreed, saying, "Thank God for the common sense of the Supreme Court."

David Vladeck, director of the Public Citizen Litigation Group, emphasized that punitive damages still are a big part of personal-injury lawsuits.

"What this decision does not do, and apparently the business community miscomprehends

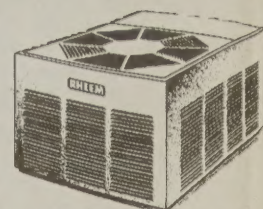
this, is give them a get-out-of-jail-free card when they engage in egregious misconduct," Vladeck said.

Consumer advocates say that large punitive-damage awards keep dangerous products off the market and protect the public from corporate greed.

In Monday's ruling, Stevens said there are three major indicators for judging whether an award is excessive:

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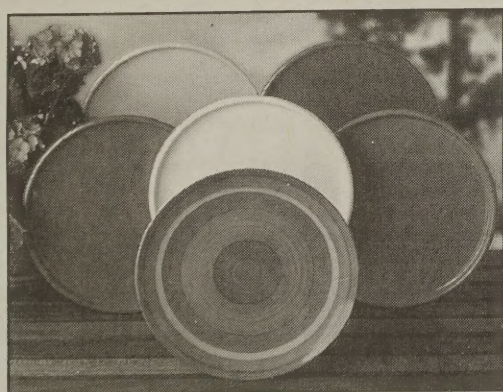
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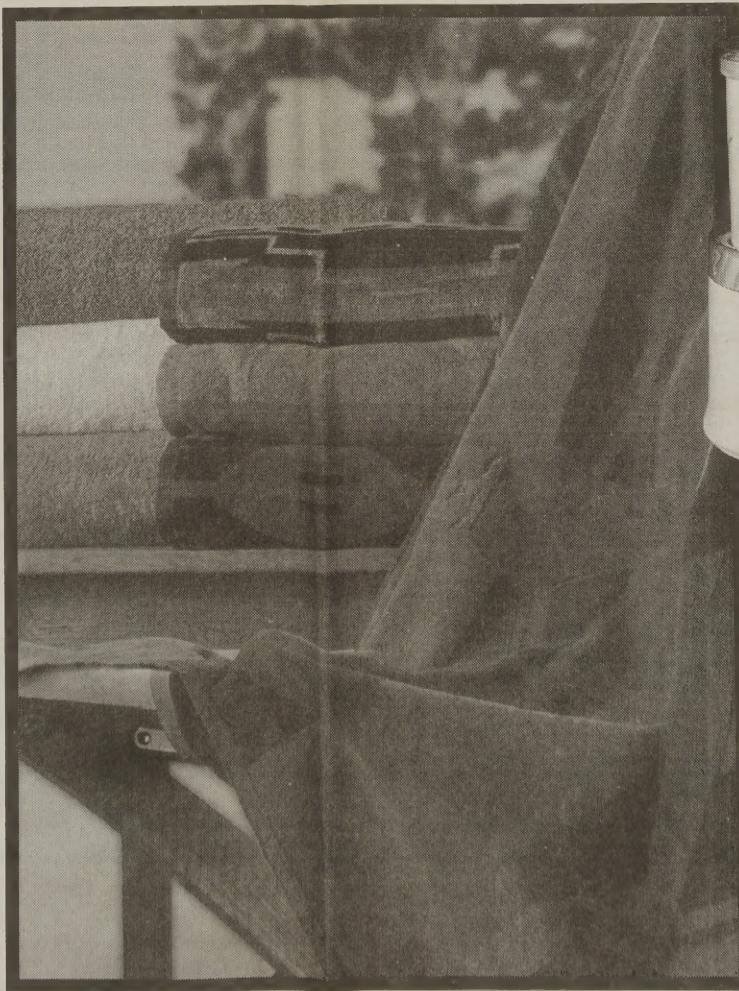
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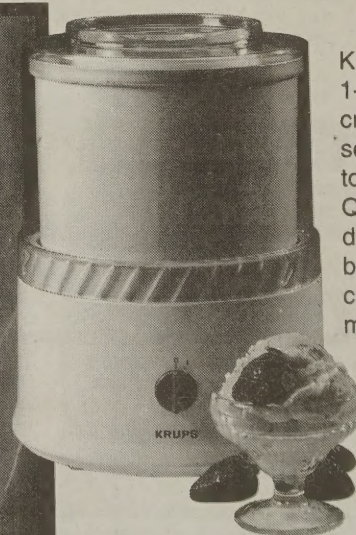
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